IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

Crl.MC.No. 1444 of 2007()

CMP.972/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER/CLAIM PETITIONER:

ISMAIL UBARIJAMGE, S/O.ALI BOBBY BAIGE,
AGED 45 YEARS, UMBARUKAGE, KUDASI VILLAGE,
MINICOY, LAKSHADWEEP.

BY ADV. SRI.M.J.SANTHOSH

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1444 of 2007

Dated this the 29th day of May, 2007

ORDER

The petitioner is allegedly involved in the commission of an offence punishable under the provisions of the N.D.P.S Act. He was allegedly found to keep in his possession a large quantity of gunja while he was on a voyage to the Lakshadweep Islands. Along with the contraband article, passport of the petitioner as also his mobile phone were seized by the police.

2. The petitioner was released on bail. He applied for release of his passport and mobile phone. The application was opposed, it appears. The learned Magistrate by the impugned order, rejected the prayer for release of both articles on the ground that they may be used for commission of offences later. The learned counsel for the petitioner submits that the reasoning adopted by the learned Magistrate is insufficient and faulty and that in these circumstances his passport and the mobile phone may be directed to be returned.

3. The learned Public Prosecutor submits that the State does not oppose the release of the mobile phone subject to appropriate conditions, but the return of the passport is opposed. Showing valid reasons, if any, the petitioner may be permitted to apply again for release of his passport before the learned Magistrate. There is no

justification in the prayer for blanket release of the passport without specifying any specific reason, submits the learned Public Prosecutor .

4. I find merit in the stand taken by the learned Public Prosecutor . I am satisfied that the passport need not be released now and the mobile phone can be released to the petitioner on condition that he executes a bond for Rs.5,000/- with two solvent sureties. If the petitioner requires passport for any reasons, he may apply to the learned Magistrate showing such reasons and the Magistrate must consider the application on merits and pass appropriate orders expeditiously.

5. This Crl.M.C is, in these circumstances, allowed in part to the above extent.

(R.BASANT, JUDGE)

rtr/-